No. 92-1816

Supreme Court, U.S.
FILED
MAY 29 1993
OFFICE OF THE CLERK

In The

Supreme Court of the United States

October Term, 1992

EDWARD RAY GREER, et al.,

Petitioner,

vs.

ARTHUR LEE GASTON

Respondent.

Petition for Writ of Certiorari to the Court of Appeals of South Carolina

PETITION FOR WRIT OF CERTIORARI

EDWARD RAY GREER, Pro Se
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QUESTIONS PRESENTED

1. Did the Trial Judge commit error when he did not rule that Arthur Lee Gaston had settled 84-CP-12-212 and 84-CP-12-213 without authority?

2. Did the Trial Judge commit error when he did not rule that F. Matlock Elliott attorney for Arthur Lee Gaston had slandered Edward Ray Greer in open court before the jury of this case?

3. Did the Trial Judge commit error when he did not rule that Arthur Lee Gaston had engaged in Conflict of Interest when he represented Lilian Mary Greer and Edward Ray Greer?

LIST OF PARTIES

A. The following are entities interested in the outcome of this case:

The parties to the proceedings are the petitioner Edward Ray Greer and his wife Lilian Mary Greer, and the respondent Arthur Lee Gaston.

B. The following is the name of opposing law firm and counsel in this case:

Petitioner Edward Ray Greer, Pro Se, Rt. 1, Box 83-A, Fort Lawn, South Carolina 29714.

Counsel for Respondent, Arthur Lee Gaston, is F. Matlock Elliott Esquire, Haynsworth, Marion, McKay & Guerard, Post Office Box 2048, Greenville, South Carolina 29602.

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NO. _____

IN THE SUPREME COURT

OF THE

UNITED STATES OF AMERICA

October Term, 1992

Edward Ray Greer, et al., Petitioner,

vs.

Arthur Lee Gaston, Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF SOUTH CAROLINA

Petitioner, Edward Ray Greer, respectfully prays that a writ of certiorari issue to review the judgment and opinion of the State of South Carolina Court of Appeals.

OPINIONS BELOW

The opinion of the Court of Appeals is reported as unpublished opinion No. 92-UP-146 Heard November 5, 1992 - Filed

November 18, 1992, and appears in Appendix A to this Petition.

JURISDICTION

The Court of Appeals Opinion in this matter was filed on November 18, 1992. A timely Petition for Rehearing was received November 24, 1992 in the Court of Appeals. The Court of Appeals' denial of the Petition for Rehearing was issued on November 30, 1992. A timely Petition For Writ of Certiorari was filed on December 21, 1992 with the Supreme Court of South Carolina. Petition for Writ of Certiorari denied February 18, 1993.

This Court's jurisdiction is invoked under Title 28, U.S.C. § 1254(1).

STATEMENT OF THE CASE

The action before the lower court is against Arthur Lee Gaston for settling Civil Actions No. 84-CP-12-212 and 84-CP-12-213 without authority.

It was commenced with the filing of

the Summons and Complaint about January 2, 1989 and with service upon Arthur Lee Gaston the same day.

The Complaint seeks judgment against Arthur Lee Gaston for loss of 4.14 acres of property and damages of Fifty Three Thousand Five Hundred Dollars, plus costs.

The defense was to deny that Arthur Lee Gaston had settled without authority.

The action was heard by the Honorable Luke N. Brown, Jr. on February 11, 12 & 13, 1991.

Jury verdict for Defendant Arthur Lee Gaston dated February 11, 1991.

Plaintiffs, Edward Ray Greer and Lilian Mary Greer appeals from the order of Judge Luke N. Brown, Jr. Service of Plaintiffs' Notice of Intent to Appeal was timely served upon Defendant's counsel on February 26, 1991.

ARGUMENT 1

a. "(1. Did the Trial Judge commit error when he did not rule that Arthur Lee Gaston had settled 84-CP-12-212 and 84-CP-12-213 without authority?)"

b. South Carolina Pocket Court Register

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"A lawyer who receives from opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case should promptly inform the client of its substance unless prior discussions with the client have left it clear that the proposal will be unacceptable."

c. When the Respondent had told Judge Edward B. Cottingham (Judge for 84-CP-12-212 & 213) that he represented clients that would not be willing to discuss settlement and when I told the Respondent to "Start the trial" the Respondent can no longer entertain discussions of settlement from the other side.

d. Paul Hemphill for the other side had

agreed to settle by dividing the land in dispute. The Respondent knew that I was loosing at least 1.6 acres. The Respondent settled without me getting any of the land in dispute.

e. I won an admitted judgment in 85-CP-12-147, the damages were for the loss of 4.14 acres of land.

f. I had moved the Court through my letters to rule that Arthur Lee Gaston had settled 84-CP-12-212 and 213 without authority. (See Appendix C and D)

(Record On Appeal Page 18 Lines 2 thru 6 - Cross-Examination of Arthur Lee Gaston)

"A Did you ever tell me that you wanted to go ahead and start the trial? Is that the question?
Q Did I ever tell you "Please start the trial" or anything that means the same thing?
A Yes, Sir."

(R.O.A. P19L16thru22 - Cross-Examination of Arthur Lee Gaston)

"Q Did you know that -- Did I tell you before that we had the meeting

on September the 24th, 1985, here in this room, did I predict to you that Paul Hemphill would come and present me a settlement by giving me half of the property that was in dispute?
The Court: He's already answered that yes earlier.
A That is correct."

(R.O.A. P21L9thru12 - Cross-Examination of Arthur Lee Gaston)

"Q (By Mr. Greer) Did you ever say in any proceedings that the loss of property to me was only 1.6 acres, in any proceedings?
A Possibly so. Yes, Sir."

(R.O.A. P23L4&5 - Direct - J. Boyd Fisher, Surveyor)

"Q Was this 4.14 acres of property a loss for my property?
A Yes, Sir."

(R.O.A. P52L4thru7 - Cross-Examination of Arthur Lee Gaston)

"The Court: Have you made a Bona Fide effort to settle this case, the two-acre dispute?
Mr. Gaston: I think Paul and I both have clients, your honor, that would not be willing to discuss settlement."

(R.O.A. P54L7thru11 - Cross-Examination of Jeffrey Kim Roberts - Law Clerk for Judge Edward B. Cottingham)

"Q Okay. And when that Arthur Gaston announced that Mr. Greer agreed to the terms of the settlement, would you please find any place in Section Two where that Mr. Greer agreed with Arthur Gaston to the terms of the settlement?
A It's not in the transcript, Mr. Greer."

(R.O.A. P55L10,11 - Cross J.K. Roberts)

"Q You also stated that, you know, I didn't object, Mr. Greer didn't object, and, in fact, indicated his agreement."

(R.O.A. P55L14thru19 - Cross J.K. Roberts)

"A Yes, sir. That was my recollection when I gave that statement.
Q Would you please find any place---
A It's not ---
Q ---In there where that I have indicated my agreement ---
A You did not ---"

(R.O.A. P56L13thru23 - Cross J.K. Roberts)

"A Mr. Greer, let me explain. Judge Cottingham, again, when you put things on the record, he dealt directly with the attorneys in the case. He did not deal with the litigants. He dealt with their attorneys.
Q That is very true.
A That's his style.

Q He never ever talked ---
The Court: Wait a minute now.
A That's the way he conducted business, the way he conducts business. They're hired attorneys, and they -- he deals with their attorneys."

(R.O.A. P49L18thru23 - Direct - Lilian Mary Greer)

"Q What did this instruction consist of?
A Start the trial.
Q Did this happen just once?
A No. many times. At least three times.
Q Did Mr. Gaston ever ask your consent to settle these cases?
A No. He -- He ignored me."

(R.O.A. Page 48, Line 1&2 - Direct - Ottis D. Greer)

"2:30. After about half an hour of listening to proposals, did you hear me give any instructions to Arthur Gaston ---"

(R.O.A. P48L12thru21 - Direct - Ottis D. Greer)

"A Yes, I did. And I heard him tell him to start the trial. And then, not only that, but after a couple of times, I leaned up and told my brother, you know, "let's get this trial started," because it was dragging on a dragging on. It was getting later in the afternoon. There wasn't being any thing established.
Q How many times approximately do you think that I gave this instruction to

Arthur Gaston?

A I didn't count the times, but there were several times. And I would swear to at least three times."

(R.O.A. P17L3thru7 - Direct - Edward Ray Greer)

"Arthur Gaston came back and started to indicate another proposal when I told him, "Let's start the trial." Now, this I may have done in this two and half or three hour period, I probably did eight or ten times, but I at least did it three times."

(R.O.A. P17L14thru24 - Direct - Edward Ray Greer)

"There's been a settlement "and the Judge then started reading what the settlement was, I -- my attorney was sitting beside of me. I says, "I don't agree with that. Start the trial." He said, "Shh, be quiet." I looked at the Judge. He wouldn't make eye contact with me. He would look up over, over me, he would look up here. The other side was sitting back in the back huddled in a corner there, and he would never look in my direction here. So, I didn't -- I didn't know what to do. I had made it abundantly clear to Mr. Arthur Gaston that I did not want to settle this."

(R.O.A. P216 Letter)

"The moment you heard Arthur Lee

Gaston admit that I had told him many times to "Start the Trial" you should have ruled that Arthur Lee Gaston had settled 84-CP-12-212 and 213 without authority."

(R.O.A. P218 Letter)

"Mr. Arthur Lee Gaston argues that when I would say "Start the Trial" the other side would sweeten the deal.
The Court of Appeal has ruled that the land in dispute is 4.14 acres.
Mr. Gaston has admitted that Paul Hemphill had offered to settle by splitting the land that was in dispute.
Mr. Gaston settled the dispute without our side getting any of the land in dispute.
Arthur Lee Gaston settled C.A. 84-CP-12-212 and 213 without authority."

(R.O.A. P45L4thru18)

"Mr. Greer: Yeah. I move an arrest of the judgment and ---
The Court: That's in the nature of a criminal proceeding. I feel that you are protected as far as the appeals are concerned. But you've got 10 days if you want to -- and I'll give you that 10 days ---
Mr. Greer: Is it 10 or 30?
The Court: ---To serve me ---
Mr. Greer: Is it 10 or 30, sir?
The Court: 10 days to serve me and serve a copy of it on him any grounds that you feel that I should reverse this judgment.

> OKay? You've got 10 days. Now, you can just mail them to me during that time, and you can mail or give a copy to Mr. Elliott. And if you feel like you'd like to do that, I'll rule again in writing."

(Please See Appendix B,C&D)

The Judge has said that he will rule again in writing, his letter states that he does not understand my letter and does not want an explanation.

(See Appendix A - The South Carolina Court of Appeals)

> "3. The Greers' challenge to the sufficiency of the evidence to support the jury's verdict has no merit. There is evidence to support the finding implicit in the jury's verdict that Gaston did not settle the boundary dispute cases without authority. Aside from other evidence in the case supporting the jury's implicit finding, Gaston himself testified the Greers accepted the opposing parties' offer of settlement. See Hackler v. Earl Wiegand Real Estate, Inc., 295 S.C. 396, 368 S.E.2d 686 (Ct. App. 1988) (the court of appeals will not disturb the jury's findings unless a review of the record discloses no evidence reasonably supports them)."

The Respondent has admitted that I told him

to "Start the trial" many times, and the Respondent told Judge Cottingham that he represented clients that would not consider settlement, and the Respondent admitted that the other side had proposed a settlement by splitting the land in dispute, and the Respondent knew that I was loosing at least 1.6 acres of land, the Respondent settled C.A. 84-CP-12-212 & 213 without me getting any of the land in dispute. The Respondent settled without authority.

ARGUMENT 2

a. "(2. Did the Trial Judge commit error when he did not rule that F. Matlock Elliott attorney for Arthur Lee Gaston had slandered Edward Ray Greer in open court before the jury of this case?)"

b. (R.O.A. P26L16&17 - Closing Argument by Mr. Elliott)

"Because we know Mr. Greer doesn't like to pay people who work for him. He didn't pay Mr. Hager."

c. (R.O.A. P25L9,12&13 - Cross-Examination of Fred Hager)

"Q How much do I owe you?
A You stay down there sort of where you are, then we're -- You don't owe me nothing."

d. (See Appendix D)

"When you heard Matlock Elliott say that I would have people work for me and then not pay them. I think you knew that the record did not support that statement and that statement is not true. I think Matlock Elliott has slandered me in open court before the jury of this case. My damages for this statement are at least ten thousand dollars you should instruct the jury to determine the amount."

e. (R.O.A. P15L1thru5)

"exception to that; is that right?
The Court: Yes, sir. I'll tell you under the rules, Mr. Greer, you don't have to take exception to anything. Under the New Rules -- you used to -- But if you want to say that every time, I have no objection."

f. (R.O.A. Page 211 starting 16 lines from bottom)

"When this Court construes an exception, it will make its construction as liberal as the

language will allow, in order to decide the question involved, unless it is satisfied that the statement has misled the respondent to his prejudice. We hold that McFadden has not been misled by the questions presented nor has he been prejudiced thereby. Finally, this Court is concerned with the substance of an appeal, not technical differences in the issues raised by the exceptions. In connection with the remarks contained in this paragraph and the previous paragraph, see the case of Bartles v. Livingston 282 S.C. 448, 319 S.E.2d 707 (Ct. App. 1984)."

g. "Elements of a cause of action for "fraud" include false representation of a present or past fact made by defendant, action in reliance thereupon by plaintiff and damage resulting to plaintiff from such misrepresentation. Citizens Standard Life Ins. Co. v. Gilley, Tex.Civ.App., 521 S.W. 2d 354, 356.

It consists of some deceitful practice or willful device, resorted to with intent to deprive another of his right, or in some manner to do him an injury. As distinguished from negligence, it is always positive, intentional. It comprises all acts, omissions and concealments involving a breach of a legal or equitable duty and resulting in damage to another. And includes anything calculated to deceive, whether it

be a single act or combination of circumstances, whether the suppression of truth or the suggestion of what is false, whether it be by direct falsehood or by innuendo, by speech or by silence, by word of mouth, or by look or gesture. Fraud, as applied to contracts, is the cause of an error bearing on a material part of the contract, created or continued by artifice, with design to obtain some unjust advantage to the one party, or to cause an inconvenience or loss to the other."

h. (Final Brief of Respondent Page 18 Lines 1 thru 18)

"In Varnadore, counsel did not object to remarks made in closing argument until after closing arguments were completed and the jury had left the courtroom. The Supreme Court held that the objection was too late and said:

> The procedure to be followed when objection is taken to remarks of counsel in jury argument is set forth in Young v. Warr, 252 S.C. 179, 165 S.E.2d 797 (1969):
>
> We have held that the proper course to be pursued when counsel makes an improper argument is for opposing counsel to immediately object and to have a record made of

the statements or language complained of and to ask the court for a distinct ruling thereon. [Emphasis supplied (in the original)]"

i. I was deceived by the ruling of Judge Brown and the silence of the attorney for the Respondent concerning taking exceptions for appeal purposes.

j. I believe the attorney for the Respondent has changed his position concerning what should be said when taking an exception.

k. "Clean hands doctrine. Under "Clean hands" doctrine, equity will not grant relief to a party, who, as actor, seeks to set judicial machinery in motion and obtain some remedy, if such party in his prior conduct has violated conscience of good faith or other equitable principle. Franklin v. Franklin, 365 MO. 442, 283 S.W. 2d 483, 486."

l. (See Appendix A - The South Carolina Court of Appeals)

"1. We need not address the issue whether the trial judge erred in not ruling that the attorney for Gaston slandered the Greers during closing argument. The Greers did not object during the attorney's

closing argument. Rather, they complained for the first time in a new trial motion after the jury returned its verdict. Their complaint came too late and, therefore, the issue is not preserved for our review. Johnson v. Painter, 279 S.C. 390, 307 S.E.2d 860 (1983); Rental Uniform Serv. v. K & M Tool & Die, 292 S.C. 571, 357 S.E.2d 722 (Ct. App. 1987)."

m. The Court of Appeals has totally ignored the ruling by Judge Brown

"Yes,Sir. I'll tell you under the rules, Mr. Greer, you don't have to take exception to anything. Under the New Rules --- you used to --"

ARGUMENT 3

a. "(3. Did the Trial Judge commit error when he did not rule that Arthur Lee Gaston had engaged in Conflict of Interest when he represented Lilian Mary Greer and Edward Ray Greer?)"

b. South Carolina Pocket Court Register

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"For example, it has been held that a partner in a law firm is conclusively presumed to have access to all confidences concerning all clients of the firm. Under this analysis, if a lawyer has been a partner in one law firm and then becomes a partner

in another law firm, there may be a presumption that all confidences known by the partner in the first firm are known to all partners in the second firm."

c. South Carolina Pocket Court Register

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"When a lawyer has been directly involved in a specific transaction, subsequent representation of other clients with materially adverse interests clearly is prohibited."

d. "Conflict of Interest. Term used in connection with public officials and fiduciaries and their relationship to matters of private interest or gain to them. Ethical problems connected therewith are covered by statutes in most jurisdictions and by federal statutes on the federal level. Generally, when used to suggest disqualification of a public official from performing his sworn duty, term "Conflict of Interest" refers to a clash between public interest and the private pecuniary interest of the individual concerned. Gardner v. Nashville Housing Authority of Metropolitan Government of Nashville and Davison County, Tenn., C.A. Tenn., 514 F.2d38,41."

e. (R.O.A. P15L1thru5)

"exception to that; is that right?

The Court: Yes, sir. I'll tell you under the rules, Mr. Greer, you don't have to take exception to anything. Under the New Rules -- you used to -- But if you want to say that every time, I have no objection."

f. (R.O.A. Page 211 starting 16 lines from bottom)

"When this Court construes an exception, it will make its construction as liberal as the language will allow, in order to decide the question involved, unless it is satisfied that the statement has misled the respondent to his prejudice. We hold that McFadden has not been misled by the questions presented nor has he been prejudiced thereby. Finally, this Court is concerned with the substance of an appeal, not technical differences in the issues raised by the exceptions. In connection with the remarks contained in this paragraph and the previous paragraph, see the case of Bartles v. Livingston, 282 S.C. 448, 319 S.E.2d 707 (Ct. App. 1984)."

g. (See Appendix E, F&G)

The Respondent knew his firm had been representing Frank Boyd McFadden, and other related Matheson's from 1933 to 1982. The letter to me from Arthur

Lee Gaston requesting the Frank Boyd McFadden file be returned to his office proves that.

h. (R.O.A. P22L8,9,10,11&12 Direct of J. Boyd Fisher surveyor)

"Q Both of these are the property of Frank Boyd McFadden. They are -- one of them was made recently, '84, and the other one back in 1933. It's the same piece of property. It belongs to the same person. Does that seem right?

A Yes, Sir."

i. (R.O.A. Page 125&127)

Frank Boyd McFadden was Plaintiff in 84-CP-12-212.

j. (R.O.A. Page 159thru185 - Abstract of title for F.B. McFadden)

(R.O.A. Page 61L25 - P62L1,2,3,8,9&10)

"The Court: In other words you are saying because Mr. Gaston and the Hamiltons firm in 1934 certified a title to this same property ---
Mr. Greer: Yes, Sir.
The Court: All right, sir. I'm going to mark this as a court exhibit for appeal purposes, but I deny your use of this."

k. (R.O.A. P28L5,6&7 Cross-Examination of Arthur Lee Gaston)

"A Mr. Greer, you brought that up yesterday. I want you to know I take offense at your contending publicly time and time again that I represented both sides of a lawsuit."

l. (R.O.A. P28L14,15&16 Cross-Examination of Arthur Lee Gaston)

"A There was a Mary Lindsay Montgomery.
Q Yes, Sir.
A She's the Matheson's daughter.

m. (R.O.A. P128&130)

John W. Matheson and Martha Matheson

84-CP-12-213 Plaintiffs.

n. (R.O.A. Page 30L17thru25)

"A The first one is the summons in which I am appearing as attorney for petitioner, Michael Brian, a copy of that record. And it's got the clerk's seal on it so you show that it's been filed. Another one is where there was a Promissory Note by John Matheson to Mary Montgomery. And we compromised the note and got it settled, and I marked it paid in full as attorney for Mary Montgomery against the Matheson's The Court: Any objections?

Mr. Greer: I object."

o. July 31, 1982. John and Martha Matheson were Plaintiffs in 84-CP-12-213 and we were defendants represented by the Respondent. The Respondent had represented the interests of the Matheson family before he represented Lilian Mary Greer and Edward Ray Greer.

p. (R.O.A. P33L24&25, P34L1&2 - Cross-Examination Arthur Lee Gaston)

"Q Is the wife of John Matheson -- is she a McFadden to your knowledge?
A Not to my knowledge. I see her nodding her head. I see her nodding her head back there. Yes, Sir."

q. (R.O.A. P32L13,14&17 - Cross-Examination of Arthur Lee Gaston)

"Q Are you a relative of any of the McFaddens?
A Not to my knowledge.
A Well, that's as good as I can give."

r. Arthur Lee Gaston does not know if he is a relative of the McFaddens (The McFaddens are related to the

Matheson's).

s. I believe the Respondent is not allowed to act as my attorney unless he can state without reservations that he is not a relative of the other side.

t. (Please See Appendix F)
This is a Promissory Note by John and Martha Matheson for ten thousand dollars to be paid to their daughter Mary Montgomery. The Respondent had negotiated this note down to $9500.00 and this is an interest of $500.00 for John and Martha Matheson. This was clearly a transaction negotiated for John and Martha Matheson who were Plaintiffs in 84-CP-12-213 and my wife and I were defendants represented by the Respondent in 1985. The Promissor Note was paid off in July 31, 1982 the Respondent represented the Mathesons before he represented my wife and I.

u. (Please See Appendix G)
This is a letter written by the Respondent's father for Frank Boyd McFadden. "Macaulay has forwarded it to me as attorney for Mr. McFadden" this letter plus at least 25 other documents I believe prove that the Gaston firm represented Frank Boyd McFadden. Frank Boyd McFadden was Plaintiff in 84-CP-12-212 and my wife and I were defendants and we were represented by the Respondent.

v. (Please See Appendix E)
This is a letter from the Respondent to me asking for me to return the file of Frank Boyd McFadden to his office. The Respondent I believe was aware that his firm had represented F.B. McFadden before he represented me.

w. Judge Brown has made a motion without being prompted and has granted that motion at least one time during the pro-

ceedings.

x. (See Appendix A - The South Carolina Court of Appeals)

"2. We likewise need not address the issue of whether the trial judge erred in not ruling that Gaston had a conflict of interest when he represented the Greers. So far as we can determine, the Greers never asked the trial judge to make this ruling. In their brief, the Greers state they "objected to the court not ruling that Arthur Lee Gaston had engaged in [a] conflict of interest." They cite "P30L24&25 R.O.A." We interpret this to mean page 30, lines 24 and 25 of the record on appeal. What appears there is the following:

THE COURT: Any objection?
MR. GREER: I object.

The objection voiced by Mr. Greer came after Gaston's attorney moved to introduce a summons in which Gaston appeared as attorney for Michael Byron Montgomery and a promissory note from John W. Matheson and Martha M. Matheson to Mary M. Montgomery that Gaston, as attorney for Montgomery, had marked paid in full. The objection to these two documents, which was too general to be considered, hardly raises the issue that the Greers seek now to argue. See Piero v. Southern Express Co., 103 S.C. 467, 88 S.E. 269 (1916) (an objection

to testimony consisting of "I object to that" was too general for consideration); 88 C.J.S. Trial § 124, at 253 (1955) ("Likewise, 'I object' ... [is] general and [is] insufficient to call the attention of the court to the specific matter objected to.")."

REASON FOR GRANTING THE WRIT

I believe the South Carolina Supreme Court and the South Carolina Court of Appeals has sanctioned judicial proceedings by the Sixth Circuit Court that are so far departed from the accepted and usual course of judicial proceedings, as to call for an exercise of this Court's power of supervision. The following are examples of those proceedings:

1. (R.O.A. P43L9&10)

"I tried to make it plain to the jury that you sasn't skilled in courtroom procedure and I did it more than once."

I believe Judge Brown by repeating to the jury that I was not skilled in courtroom procedure day after day for

three days the Judge was successful in biasing the jury against me.

2. (R.O.A. P41L23,24&25)

"Mr. Greer: She ---
The Court: Who is this "she"?
Mr. Greer: This is Martha McFadden Matheson."

(R.O.A. P42L3,4&5)

"Mr. Greer: She was talking to my witness, Mr. J. Boyd Fisher, and telling him about her plat and that how long that it had been in existence and ---"

(R.O.A. P42L16thru19)

"The Court: All right, sir. I note your --- and what would you like for me to do about it?
Mr. Greer: Is tampering with witnesses a problem?
The Court: It could be,"

I believe Judge Brown has done anything that he can to help the Respondent prevent a fair trial. Martha McFadden Matheson was one of the parties to the Promissory Note negotiated by the Respondent (See Appendix F).

3. (R.O.A. P45L4thru18)

"Mr. Greer: Yeah. I moved an

arrest of the judgment and ---
The Court: That's in the nature of a criminal proceeding. I feel that you are protected as far as the appeals are concerned. But you've got 10 days if you want to -- and I'll give you that 10 days ---
Mr. Greer: Is it 10 or 30?
The Court: --- To serve me ---
Mr. Greer: Is it 10 or 30, sir?
The Court: 10 days to serve me and serve a copy of it on him any grounds that you feel that I should reverse this judgment. OKay?
You've got 10 days. Now, you can just mail them to me during that time, and you can mail or give a copy to Mr. Elliott. And if you feel like you'd like to do that, I'll rule again in writing."

(See Appendix D) "Your Honor: The moment you heard Arthur Lee Gaston admit that I had told him many times to "Start the trial" you should have ruled that Arthur Lee Gaston had settled 84-CP-12-212 and 213 without authority.

When you heard Matlock Elliott say that I would have people work for me and then not pay them. I think you knew that the record did not support that statement and that statement is not true. I think that Matlock Elliott has slandered me in open court before the jury of this case. My damages for this statement are at least ten thousand dollars, you should instruct the jury to determine the amount.

I made sure that the Clerk of Court

had provided you with the records of C.A.84-CP-12-212 and 213, C.A.85-CP-12-147 and I made you aware of the reversal of C.A.85-CP-12-147 and also of the admitted judgment in C.A.85-CP-12-147.

Judge James M. Morris found:
Confession of judgment by the defendant in the amount of $14,500.00 and the attorney and clients for both sides signed the agreement.
This all concerns C.A.85-CP-12-147.

The Court of Appeals ruling on C.A.85-CP-12-147. See Page 10 the second paragraph from the top "We hold that the attached plat and the admitted fact that Greer and McFadden agreed on the corners of the tract to be conveyed constitutes sufficient evidence to create a issue of merit for determination by the trier of the facts as to whether McFadden purported to convey the disputed property to Greer".

The attached plat shows a loss of 4.14 acres of property from the Greer tract."

(See Appendix C) "Your Honor:
Mr. Arthur Lee Gaston argues that when I would say "Start the Trial" the other side would sweeten the deal.

The Court of Appeals has ruled that the land in dispute is 4.14 acres.

Mr. Gaston has admitted that

Paul Hemphill has offered to settle by splitting the land that was in dispute.

Mr. Gaston settled the dispute without our side getting any of the land in dispute.

Arthur Lee Gaston settled C.A.84-CP-12-212 and 213 without authority."

On February 13, 1991 Judge Brown has said that he will rule in ten days in writing concerning any motions on any grounds concerning the reversal of this case.

(See Appendix B) "Dear Mr. Greer: This is to acknowledge receipt of your Certified letter of February 14, 1991, which frankly I do not understand and by copy to the Clerk of Court, I am requesting that she file this letter in the record of this case. I do not care for an explanation of this correspondence but merely wish to inform you, as I have already done, the limit of your time to appeal the jury's decision. Once I left the County, I have no further jurisdiction and suggest you correspond, if you care, to the administrative Judge for that circuit."

On February 13, 1991 Judge Brown ruled that he would arrest judgment until February 23, 1991.

I received from the Clerk of Court the judgment on February 16, 1991 and this judgment was dated February 11, 1991. I received the letter from Judge Brown dated February 22, 1991.

(See Appendix B)

This was the letter that Judge Brown said he would rule through. I think this is just one more thing that demonstrates the bad faith intentions of this Judge.

4. (R.O.A. P32L8thru19)

"Mr. Greer: Sir, can I please ask it -- would it be relevant to you if Arthur Gaston is a relative of the McFaddens?
Would that be relative?
The Court: Just ask him, are you related to the McFaddens?
Q Are you a relative of any of the McFaddens?
A Not to my knowledge.
The Court: He says No.
Mr. Greer: Not to his knowledge.
A Well, that's as good as I can give.
The Court: That's enough. Just a minute. That's all you're going to ask about his relatives and the McFaddens."

I believe Judge Brown is giving aid

and comfort to the Respondent that has a Conflict of Interest because he is related to the McFaddens and Mathesons while he was representing me against them.

5. (R.O.A. P15L1thru5)

"exception to that; is that right?
The Court: Yes, sir. I'll tell you under the rules, Mr. Greer, you don't have to take exception to any thing. Under the New Rules -- you used to -- But if you want to say that every time, I have no objection."

The South Carolina Court of Appeals and the South Carolina Supreme Court both act as if Judge Brown had not made this ruling, and the Respondent was silent.

6. (R.O.A. P64L14thru25 - P65L1thru21)

"The Court: --- About the 1934 Representation --- Mr. Greer: No. I don't want to do anything at this time.
The Court: Well, you had asked to make that an exhibit.
Mr. Greer: No, I didn't. I don't remember making that as an exhibit.
The Court: You said you wanted to do it because you said you wanted to show the bias. This is the file

you wanted to make an exhibit.
Mr. Greer: This is the one that you made -- Yes, you made it a Court ---
The Court: I made it a Court exhibit.
Mr. Greer: Yeah.
The Court: But would you like that exhibit to go to the Jury?
Mr. Greer: Oh, Yes, sure. Sure. I'm sorry.
The Court: I'm going to let her make a photocopy. I'll give them the original back and I'll give the jury as your exhibit. Do you have any objection to that?
Mr. Greer: Now, wait a minute. You're going to give the original to who?
The Court: I'm going to give the original back to where it belongs.
Mr. Greer: Well, I object to that.
The Court: Would you like this as a Court exhibit?
Mr. Greer: Yes, Sir. I want to get it back.
The Court: As your exhibit?
Mr. Greer: Yes, my exhibit.
The Court: All right. He wants this -- this is marked court's exhibit. Let's make it a Plaintiffs' exhibit. Give that to the Court Reporter. (Plaintiffs' Exhibit No. 9, previously marked a Court's exhibit No. 1, re-marked and received in evidence)"

Judge Brown has tried to give my original exhibits that I believe show that the Respondent's firm had represented the other side before the Respondent

represented me.

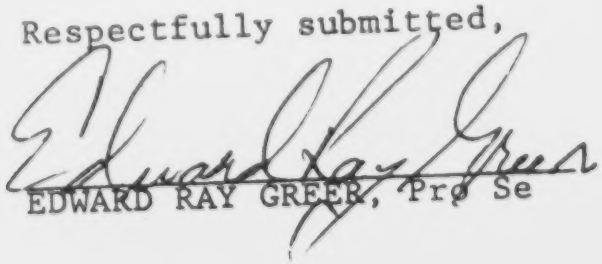
Judge Brown had denied my use of these court's exhibits and had said that they could be used on appeal. I believe Judge Brown was only trying to cover up the fact that this exhibit had not been allowed as evidence during the trial for Conflict of Interest.

CONCLUSION

For the reasons set forth above, a writ of certiorari should issue to review the judgment and opinion of the South Carolina Court of Appeals in this matter.

DATED: May 4, 1993

Respectfully submitted,



EDWARD RAY GREER, Pro Se

APPENDIX A

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

Edward Ray Greer and

Lilian Mary Greer, ... Appellants,

v.

Arthur Lee Gaston, ... Respondent.

Appeal from Chester County

Luke N. Brown, Jr., Judge

Unpublished Opinion No. 92-UP-146 Heard November 5, 1992 - Filed November 18, 1992

AFFIRMED

Edward Ray Greer and Lilian Mary Greer, both of Fort Lawn, pro se.

F. Matlock Elliott, of Greenville, for respondent.

PER CURIAM: Edward Ray Greer and Lilian Mary Greer brought this attorney malpractice action against Arthur Lee

Gaston claiming Gaston settled two boundary dispute cases without their authority. The jury found in Gaston's favor. The Greers appeal. The questions on appeal relate to the closing argument made by Gaston's attorney, the failure of the trial judge to rule that Gaston had a conflict of interest when he represented the Greers, and the sufficiency of the evidence to support the verdict. We affirm.

1. We need not address the issue of whether the trial judge erred in not ruling that the attorney for Gaston slandered the Greers during closing argument. The Greers did not object during the attorney's closing argument. Rather, they complained for the first time in a new trial motion after the jury returned its verdict. Their complaint came too late and, therefore, the issue is not preserved for our review. Johnson v. Painter, 279 S.C. 390, 307 S.E.2d

860 (1983); Rental Uniform Serv. v. K & M Tool & Die, 292 S.C. 571, 357 S.E.2d 722 (Ct. App. 1987).

2. We likewise need not address the issue of whether the trial judge erred in not ruling that Gaston had a conflict of interest when he represented the Greers. So far as we can determine, the Greers never asked the trial judge to make this ruling.

In their brief, the Greers state they "objected to the court not ruling that Arthur Lee Gaston had engaged in [a] conflict of interest." They cite P30L24&25 R.O.A." We interpret this to mean page 30, lines 24 and 25 of the record on appeal. What appears there is the following:

THE COURT: Any objection?
MR. GREER: I object.

The objection voiced by Mr. Greer came after Gaston's attorney moved to introduce a summons in which Gaston appeared as

attorney for Michael Byron Montgomery and a promissory note from John W. Matheson and Martha M. Matheson to Mary M. Montgomery that Gaston, as attorney for Montgomery, had marked paid in full. The objection to these two documents, which was too general to be considered, hardly raises the issue that the Greers seek now to argue. See Piero v. Southern Express Co., 103 S.C. 467, 88 S.E. 269 (1916) (an objection to testimony consisting of "I object to that" was too general for consideration); 88 C.J.S. Trial § 124, at 253 (1955) ("Likewise, 'I object' ... [is] general and [is] insufficient to call the attention of the court to the specific matter objected to.").

3. The Greers' challenge to the sufficiency of the evidence to support the jury's verdict has no merit. There is evidence to support the finding implicit in the jury's verdict that Gaston did not settle the boundary dispute cases without authority.

Aside from other evidence in the case supporting the jury's implicit finding, Gaston himself testified the Greers accepted the opposing parties' offer of settlement. See Hackler v. Earl Wiegand Real Estate, Inc., 295 S.C. 396, 368 S.E.2d 686 (Ct. App. 1988) (The Court of Appeals will not disturb the jury's findings unless a review of the record discloses no evidence reasonably supports them).

AFFIRMED.

JOHN P. GARDNER J.

C. TOLBERT GOOLSBY, JR. J.

C. BRUCE LITTLEJOHN A.J.

APPENDIX B

FOURTEENTH JUDICIAL CIRCUIT

Luke N. Brown,jr.,Judge
P.O. Box 879
Ridgeland, S.C. 29936

Jasper
Allendale -
Beaufort -
Colleton -
Hampton

February 22, 1991

Edward Ray Greer
Rt. 1, Box 83-A
Fort Lawn, South Carolina 29714

Dear Mr. Greer:

This is to acknowledge receipt of your certified letter of February 14, 1991, which frankly I do not understand and by copy to the Clerk of Court, I am requesting that she file this letter in the record of this case. I do not care for an explanation of this correspondence but merely wish to inform you, as I have already done, the limit of your time to appeal the jury's decision. Once I left the County, I have no further jurisdiction and suggest you

correspond, if you care, to the Administrative Judge for that Circuit.

Very truly yours,

Luke N. Brown, Jr.

LNBjr/tg

cc: Sue Carpenter
Clerk of Court
F. Matlock Elliott, Esquire

APPENDIX C

February 20, 1991

Honorable Judge Luke N. Brown, Jr.

Resident Judge 14th Circuit

Box 879

Ridgeland, S.C. 29936

Re: 89-CP-12-03

Your Honor:

Mr. Arthur Lee Gaston argues that when I would say "start the trial" the other side would sweeten the deal.

The Court of Appeal has ruled that the land in dispute is 4.14 acres.

Mr. Gaston has admitted that Paul Hemphill had offered to settle by splitting the land that was in dispute.

Mr. Gaston settled the dispute without our side getting any of the land in dispute.

Arthur Lee Gaston settled C.A.84-CP-12-

212 & 213 without authority.

Respectfully,

Edward Ray Greer, Pro Se

Rt. 1, Box 83-A

Fort Lawn, S.C. 29714

(803) 789-5038

ERG/lmg

cc: Sue K. Carpenter

cc: Matlock Elliott

APPENDIX D

February 14, 1991

Honorable Judge Luke N. Brown, Jr.

Resident Judge 14th Circuit

Box 879

Ridgeland, S.C. 29936

Re: 89-CP-12-03

Your Honor:

The moment you heard Arthur Lee Gaston admit that I had told him many times to "Start the Trial" you should have ruled that Arthur Lee Gaston had settled 84-CP-12-212 and 213 without authority.

When you heard Matlock Elliott say that I would have people work for me and then not pay them. I think you knew that the record did not support that statement and that statement is not true. I think Matlock Elliott has slandered me in open court before the jury of this case. My damages for this statement are at least ten thousand dollars you should instruct the jury to determine the amount.

I made sure that the Clerk of Court had provided you with the records of C.A.84-CP-12-212 & 213, C.A.85-CP-12-147 and I made you aware of the reversal of C.A.85-CP-12-147 and also of the admitted judgment in C.A.85-CP-12-147.

Judge James M. Morris found:

Confession of judgment by the defendant in the amount of $14,500.00 and the attorneys and clients for both sides signed the agreement.

This all concerns C.A.85-CP-12-147.

The Court of Appeals ruling on C.A.85-CP-12-147.

See Page 10 the second paragraph from the top "We hold that the attached plat and the admitted fact that Greer and McFadden agreed on the corners of the tract to be conveyed constitutes sufficient evidence to create an issue of merit for determination by the trier of the facts as to whether McFadden purported to convey the

disputed property to Greer".

The attached plat shows a loss of 4.14 acres of property from the Greer tract.

Respectfully,

Edward Ray Greer, Pro Se

Rt. 1, Box 83-A

Fort Lawn, S.C. 29714

(803) 789-5038

ERG/lmg

cc: Sue K. Carpenter

cc: Matlock Elliott

P.S. I have in hand the cross-examination of Arthur Lee Gaston, Judge John Matheson, F. Matlock Elliott C.S., and Fred J. Hager.

APPENDIX E

EXHIBIT "I"

GASTON, GASTON & MARION, P.A.
Attorneys at Law
124 Gadsden Street
P.O. Box 743
Chester, S.C. 29706

David A. Gaston
Arthur Lee Gaston
W.L.D. Marion

Telephone
(803)385-2114
FEID No.57-06930

October 9, 1985

Mr. and Mrs. Edward Ray Greer
Route 1, Box 83-A
Fort Lawn, S.C. 29714

Dear Mr. and Mrs. Greer:

When the two of you were in our office on October 1st and picked up various files in connection with the matter we were handling for you there was an old Federal Land Bank file regarding property of Frank B. McFadden (and perhaps others). This file cannot now be located in our office and is believed to have been inadvertently picked

up by you. I spoke with Ed concerning this matter several days ago. Since that time I have left word with Mrs. Greer for him to call me. It will be appreciated if you will verify whether or not you have this file, and, if so, please return it to our office. Thank you.

We have also incurred the following additional costs in connection with the several lawsuits which we have been handling for you: (1) Aerial photo map from Tax Assessor's office with property line in question removed, $3.50; (2) Aerial photo map from Tax Assessor's office with questioned property line shown, $3.50; (3) Sheriff's fee for service of subpoena on Terry Love, $10.00.

Yours very truly,

ARTHUR LEE GASTON

Arthur Lee Gaston

ALG/jam

Plaintiff's

Exhibit 10

APPENDIX F

$10,000.00 Chester,S.C. June ,1981

ON JULY 31, 1982, for value received I promise to pay to the order of MARY M. MONTGOMERY, the sum of TEN THOUSAND and NO/100 ($10,000.00) DOLLARS, with interest after maturity at the rate of ten (10%) per cent per annum. Makers and Endorsers waive presentment, demand and notice of protest. In the event this note is placed in the hands of an attorney for collection, then there shall be added to the balance due thereon interest and attorney's fees at the rate of fifteen (15%) per cent of the balance due.

JOHN W. MATHESON
JOHN W. MATHESON

Defendant's Exhibit 39

MARTHA M. MATHESON
MARTHA M. MATHESON

NOTE NO. 1

DUE: July 31, 1982.

Sale Price $37,000.00

Satisfy Old Mortgage 17,362.13

Received by Seller

from Borrower 9,637.87 June 15,1981

Balance Due Seller 10,000.00

Paid in Full in settlement amount of $9500.00 as agreed. A.L. Gaston attorney for Mary M. Montgomery, July 31, 1982

APPENDIX G

February 21, 1934

Atlantic Joint Stock Land Bank

Raleigh

North Carolina

Re - Loan #904 - F.B. McFadden

Dear Sirs:

Since receiving your letter of February 16th, Mr. A.H. Macaulay has forwarded it to me as attorney for Mr. McFadden in making application for him to the Federal Land Bank. This application was made at the request of your Bank; your Mr. John R. Williams of Rock Hill, S.C., brought Mr. McFadden to my office. Since you are not willing to accept the amount loaned by the Federal Land Bank it has become necessary for Mr. McFadden to make other arrangements. He has arranged to have his mortgage taken up by a private party here and I am therefore forwarding you cashier's check for $1,738.81 as per your letter to A.H. Macaulay of February 16th, 1934. This

check is not for the satisfaction of your mortgage but is for the assignment thereof to A.G. Westbrook. Please make the following indorsement on your mortgage and forward it to me with note attached: "For value received the within note and mortgage together with the debts secured thereby are hereby transfered and assigned without recourse to A.G. Westbrook." Then sign thereunder the name of your Bank by its duly authorized officer and on the left say: "In the Presence of:" and have two witnesses witness the execution of the assignment of mortgage. If this is done upon the mortgage paper itself it will not be necessary to have an affidavit probating the execution of the paper and the recording of the assignment will be more simple. The enclosed check is for the assignment of mortgage and not for satisfaction and we will therefore appreciate your accepting the check for assignment

of this mortgage and mailing the mortgage to us. You may also return the checks of the Federal Land Bank to Mr. Macaulay at Chester. The check enclosed is my personal check instead of cashier's check, the exchange being so high on a cashier's check now.

Yours very truly,

HAMILTON & GASTON

BY

DAG:D